

46 Am. Jur. 2d Judges § 60

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Judges

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VII. Compensation; Benefits; Allowances for Expenses

B. Changes in Compensation

§ 60. Suspension of judges' pay pending disciplinary or criminal proceedings

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Judges](#)  22(7), 22(9)

In lieu of removal, a state supreme court may, upon a proper showing of abuse or misconduct, order that a judge be suspended.¹ However, the practice of suspending judges without pay, pending the disposition of criminal charges or the completion of underlying judicial disciplinary hearings, has been challenged as a deprivation of property without due process of law, an impairment of an obligation of contract, and an unconstitutional diminution of judicial salary.² Although some courts have held that the public confidence and the integrity of the judiciary will best be served by suspending the judge with pay pending the outcome of judicial disciplinary proceedings,³ there is also authority that supports suspending a judge who has been indicted or charged with a criminal offense, without pay pending final disposition of those charges,⁴ and that such action is constitutionally valid under the applicable state constitutional provisions.⁵ Courts which have supported the suspension of judicial officers without compensation have reasoned that such public officers are not entitled to compensation since, at common law, their right to compensation arose out of the performance of their duties and was incident to the office itself, rather than to the person discharging the duties,⁶ and that the overriding public interest in preserving the integrity of the judiciary demands that the personal interests of the judge be subordinated and the judge suspended without pay pending the outcome of an appeal of a judge's conviction and a judicial proceeding initiated against the judge.⁷

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Footnotes

- 1 § 20.
- 2 *Matter of Grubb*, 187 W. Va. 228, 417 S.E.2d 919 (1992).
- 3 *In re Complaint Concerning Kirby*, 350 N.W.2d 344 (Minn. 1984); *State ex rel. Green v. Tilton*, 1 Ohio St. 3d 54, 437 N.E.2d 1174 (1982).

4 Matter of Ferguson, 304 S.C. 216, 403 S.E.2d 628 (1991); Matter of Grubb, 187 W. Va. 228, 417 S.E.2d
5 919 (1992).
6 Matter of Grubb, 187 W. Va. 228, 417 S.E.2d 919 (1992).
7 Matter of Ferguson, 304 S.C. 216, 403 S.E.2d 628 (1991).
 Matter of Grubb, 187 W. Va. 228, 417 S.E.2d 919 (1992).
 It would invite scorn and disrespect for our rule of law were we to adopt an interpretation of the constitution
 that would require the state or a municipality to pay salary to a convicted judge while the convicted judge is
 in jail paying a debt to society for a felonious transgression against its laws. [Ginsberg v. Purcell](#), 51 N.Y.2d
 272, 434 N.Y.S.2d 147, 414 N.E.2d 648 (1980).

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